

THE LAWYER'S PRAYER

Lord, stir up strife and argument
amongst thy people, lest thy
servant perish. Amen

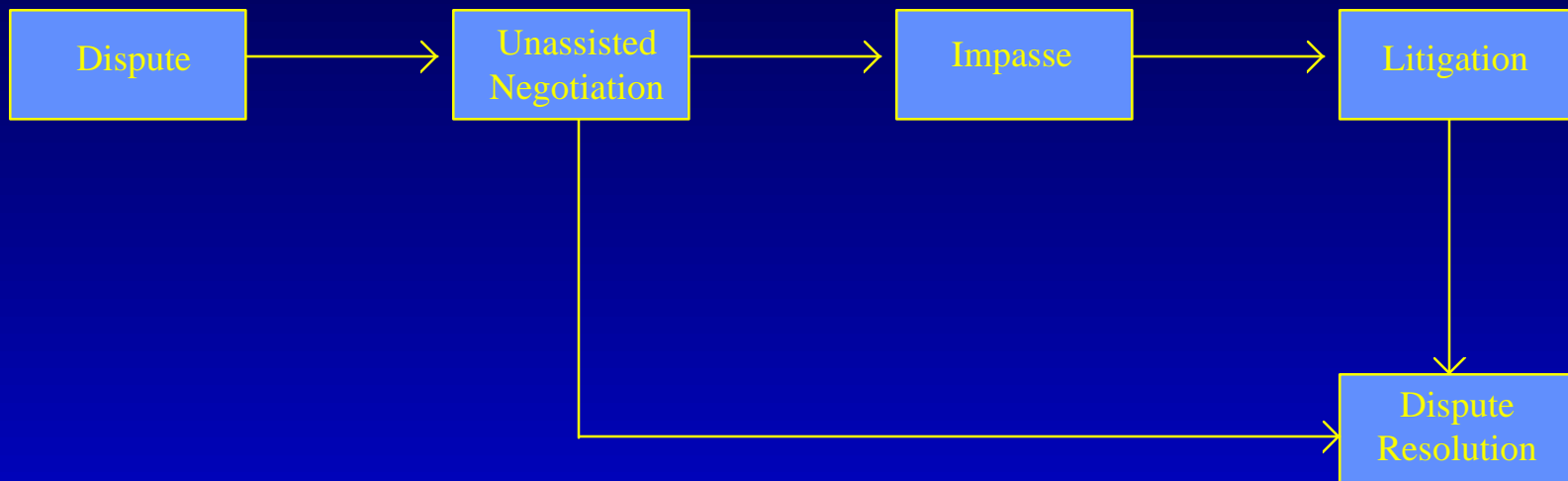
Defense Contract Management Command



Alternative Dispute Resolution



Life Cycle of a Dispute





Impasses, Litigation, and Dispute Resolution Forums

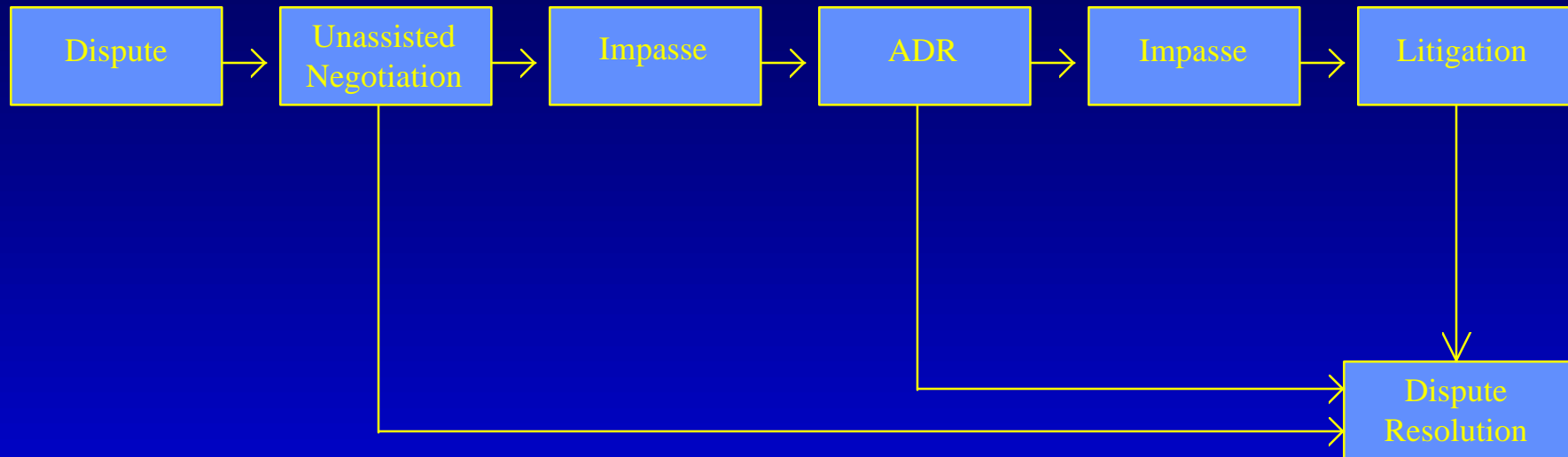
Impasses: Inability to get to settlement

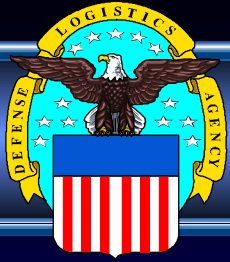
Litigation: Legal contest by judicial process

**Dispute Resolution Forum: Forums where disputes
or impasses are resolved
through litigation**



Alternate Dispute Resolution (ADR) in Dispute Life Cycle





Common Features of ADR Techniques

- **Negotiation assistance by third party**
- **Third party is neutral**
- **Focus on interests**
- **Alternatives are developed**



ADR Techniques

- **Conciliation**
- **Facilitation**
- **Mediation**
- **Early Neutral Evaluation**
- **Factfinding**
- **Minitrial**
- **Arbitration**



Authority for ADR

- Administrative Dispute Resolution Act of 1996, P.L.104-320, 5 U.S.C. § 571 et seq.
- Contract Disputes Act, 41 U.S.C. 601- 613
- Federal Acquisition Regulation, 48 CFR §33.214,
- Executive Order 12988 - Civil Justice Reform
February 5, 1996
- Department of Justice Order - Promoting the Broader
Appropriate use of Alternative Dispute Resolution
Techniques, April 6, 1995.



Authority for ADR

(Continued)

- DoD Directive 5145.5, April 22, 1996
- DLAR 5145.1, May 29, 1992
- Maj Gen Drewes memo, April 5, 1996



ADR may not be appropriate if:

- definitive and authoritative decision is needed as a precedent
- the matter involves significant issues of government policy and ADR will not assist policy development
- maintaining established policy and avoiding variations in implementation are of special importance



ADR may not be appropriate if: (continued)

- a full public record of the proceeding or resolution is important
- the agency involved must maintain continuing jurisdiction over the matter and has the right to alter
- the matter significantly affects nonparties



Essential elements of ADR include -

- Existence of an issue in controversy
- A voluntary election by both parties to participate in the ADR process
- An agreement on alternative procedures and terms to be used in lieu of formal litigation
- Participation in the process by officials of both parties who have the authority to resolve the issue in controversy